

1 DANIEL JOHNSON, JR. (State Bar No. 57409)
MICHAEL J. LYONS (State Bar No. 202284)
2 HARRY F. DOSCHER (State Bar No. 245969)
MORGAN, LEWIS & BOCKIUS LLP
3 2 Palo Alto Square
3000 El Camino Real, Suite 700
4 Palo Alto, CA 94306-2122
Tel: 650.843.4000
5 Fax: 650.843.4001
E-mail: djohnson@morganlewis.com
6 E-mail: mlyons@morganlewis.com
E-mail: hdoscher@morganlewis.com
7

8 Attorneys for Defendant
WOODSTREAM CORPORATION
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION
13

14 SAN FRANCISCO TECHNOLOGY INC.,
15 Plaintiff,
16 v.
17 AERO PRODUCTS INTERNATIONAL
INC., et. al.,
18 Defendants.
19

Case No. 10-CV-02994 JF

DEFENDANT WOODSTREAM
CORPORATION'S NOTICE TO THE
ATTORNEY GENERAL OF THE UNITED
STATES OF A CONSTITUTIONAL
CHALLENGE

1 PURSUANT TO FED. R. CIV. P. 5.1, AND PURSUANT TO N.D. CAL. CIV. L. R. 3-8,
2 NOTICE IS HEREBY GIVEN to the Attorney General of the United States and to the Court that
3 the defendant in the above-titled case has challenging the constitutionality of 35 U.S.C. § 292 to
4 the extent that statute is construed to effect a delegation of executive authority in violation of U.S.
5 Const., Art. II, § 3. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 576, 112 S.Ct. 2130 (1992);
6 *Morrison v. Olson*, 487 U.S. 654, 696, 108 S.Ct. 2597 (1988). Woodstream raises its challenge in
7 its Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 129b)(1) and 12(b)(6) or, in
8 the Alternative, to Sever and Transfer, filed on September 9, 2010.

9
10
11 Dated: September 9, 2010

MORGAN, LEWIS & BOCKIUS LLP

12
13
14 By /s/ Michael J Lyons

15 Michael J. Lyons
16 Attorneys for Defendant
17 Woodstream Corporation
18
19
20
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that on September 9, 2010, all counsel of record who are
3 deemed to have consented to electronic service are being served with a copy of the
4 **DEFENDANT WOODSTREAM CORPORATION'S NOTICE TO THE ATTORNEY**
5 **GENERAL OF THE UNITED STATES OF A CONSTITUTIONAL CHALLENGE** via the
6 Court's CM/ECF system pursuant to Local Rule 5-4 and General Order 45. Any other counsel of
7 record will be served by first class mail.

8 Pursuant to Federal Rules of Civil Procedure 5.1(a)(2), the undersigned hereby further
9 certifies that that on September 9, 2010, **DEFENDANT WOODSTREAM CORPORATION'S**
10 **NOTICE TO THE ATTORNEY GENERAL OF THE UNITED STATES OF A**
11 **CONSTITUTIONAL CHALLENGE** was served on the U.S. Attorney General by certified
12 mail, return receipt requested, at the following address:

13 United States Attorney General
14 U.S. Department of Justice
15 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

16 Pursuant to Local Rule 3-8, the undersigned hereby further certifies that that on
17 September 9, 2010, **DEFENDANT WOODSTREAM CORPORATION'S NOTICE TO THE**
18 **ATTORNEY GENERAL OF THE UNITED STATES OF A CONSTITUTIONAL**
19 **CHALLENGE** was served on the U.S. Attorney for the Northern District of California by
20 certified mail, return receipt requested, at the following address:

21 United States Attorney for the Northern District of California
22 Heritage Bank Building
150 Almaden Blvd. Suite 900
San Jose, CA 95113

23 I declare under penalty of perjury under the laws of the United States of America that the
24 above is true and correct.

25 Executed on September 9, 2010, at Palo Alto, California.

26 /s/ Michael Lyons
27 Michael J. Lyons
28